

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

DEVIN G. NUNES,

Plaintiff,

v.

CABLE NEWS NETWORK, INC.,

Defendant.

Civil No.: 3:19-CV-00889

MOTION TO DISMISS AMENDED COMPLAINT

Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, Defendant Cable News Network, Inc., by and through undersigned counsel, hereby moves to dismiss the Amended Complaint in this matter for failure to state a claim upon which relief can be granted. The Amended Complaint purports to allege counts of defamation and conspiracy. Both claims fail as a matter of law. As set forth more fully in the Memorandum of Law submitted in support of this Motion, the grounds for dismissal are:

1. Plaintiff failed to seek an unequivocal demand for correction or retraction in writing within 20 days of learning of the allegedly defamatory report, as required by the retraction statute in his home state of California. Cal. Civ. Code § 48a. His failure to do so limits his recovery to only special damages as a matter of law. Because the Amended Complaint fails to plead special damages with the specificity that is required, it must be dismissed.
2. The conspiracy claim is independently defective and must be dismissed for the additional reason that it is based on nothing more than conclusory allegations that cannot give rise to plausible claim.

WHEREFORE, Defendant respectfully requests that the Court enter an order granting the Motion to Dismiss and dismissing the case with prejudice.

Dated: February 21, 2020

Respectfully submitted,

WILLIAMS & CONNOLLY LLP

By: /s/ Dane H. Butswinkas

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CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of February 2020, I caused a true and correct copy of the foregoing Motion to Dismiss of Defendant Cable News Network, Inc. to be served on counsel of record via the Court's CM/ECF system.

/s/ *Dane H. Butswinkas*

Dane H. Butswinkas